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EXAMINER

LY, NGHI H

ART UNIT PAPER NUMBER

2686

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/885,436

Applicant(s)

HUNZINGER, JASON F.

Examiner

Nghi H. Ly

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 and 39-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 and 39-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Invention I, Species I (Claims 1-34 and 39-43) in the reply filed on 08/04/2004 is acknowledged.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 9, 13, 18, 23, 24, 27, 29-31, 33 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Borkowski (US 5,519,760).

Regarding claims 1, 9, 13, 18, 23, 24, 29-31, 33 and 39, Borkowski teaches a system for communicating information related to the position of a mobile station within a wireless communication infrastructure (see Abstract), comprising a data server capable of communicating with the wireless communication infrastructure (see fig4, server 49 and wireless connection with the mobile station), wherein the mobile station and the data server communicate via the wireless communication infrastructure using formatted messages representing wireless communication infrastructure state information related to the position of the mobile station within the service area of the wireless communication infrastructure (see column 1, lines 29-58).

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Regarding claims 4 and 27, Borkowski further teaches the mobile station is a cellular telephone (fig.4, see mobile station).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 11, 22, 26 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borkowski et al (US 5,519,760) in view of Rantalainen et al (US 6,667,963).

Regarding claims 2, 11, 22, 26 and 43, Borkowski teaches claim 1. Borkowski does not specifically disclose the formatted messages are short message service (SMS) messages.

Rantalainen teaches the formatted messages are short message service (SMS) messages (see column 6, lines 7-11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Rantalainen into the system of Borkowski in order to provide an alternative way to transmit location data.

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6. Claims 3, 10, 14, 15, 21, 25, 34 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borkowski et al (US 5,519,760) in view of Linden et al (US 6,549,773).

Regarding claims 3, 10, 21, 25, 34 and 42, Borkowski teaches claim 1. Borkowski does not specifically disclose the wireless communication infrastructure uses code division multiple access.

Linden teaches the wireless communication infrastructure uses code division multiple access (see column 1, lines 30-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Linden into the system of Borkowski in order to permit channel overlap between base stations.

Regarding claims 14 and 15, Borkowski teaches claim 1. Borkowski does not specifically disclose the application or service on the data server is the Wireless Markup Language Script (WMLScript).

Linden teaches the application or service on the data server is the Wireless Markup Language Script (WMLScript) (see column 5, lines 11-15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Linden into the system of Borkowski in order to provide binary encoded for optimum transmission efficiency.

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7. Claims 5 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borkowski et al (US 5,519,760) in view of Falco et al (US 6,493,539).

Regarding claims 5 and 28, Borkowski teaches claim 1. Borkowski does not specifically disclose the mobile station is a PCS handset.

Falco teaches the mobile station is a PCS handset (see column 1, lines 14-17).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Falco into the system of Borkowski in order to prevent call termination due the interference.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borkowski et al (US 5,519,760) in view of Kong (US 6,275,186).

Regarding claim 6, Borkowski teaches claim 1. Borkowski does not specifically disclose the state information related to the position of the mobile station includes a base station identification and sector pseudo-noise offset.

Kong teaches the state information related to the position of the mobile station includes a base station identification and sector pseudo-noise offset (see column 3, lines 31-38).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Kong into the system of Borkowski in order to provide an alternative way to determine the location of the mobile station.

9. Claims 7, 8, 12, 16, 20 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borkowski et al (US 5,519,760).

Regarding claims 7, 8, 12, 16, 20 and 41, Borkowski teaches claims 1, 9, 18, 23, 29, and 39, instead of the state information is in the form of a standard string format or the more critical information is listed first in the string or the formatted messages are browser calls or the formatted message is a text string or placing the more important information at the beginning of the formatted message as claimed. However, using state information is in the form of a standard string format or the more critical information is listed first in the string or the formatted messages are browser calls or the formatted message is a text string or placing the more important information at the beginning of the formatted message as claimed are known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Borkowski as claimed in order to improve the state information is in the form of a standard string format or the more critical information is listed first in the string or the formatted messages are browser calls or the formatted message is a text string or placing the more important information at the beginning of the formatted message.

10. Claims 17, 19, 32 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borkowski et al (US 5,519,760) in view of Chiang et al (US 6,741,863).

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Regarding claim 6, Borkowski teaches claims 9, 18, 29 and 39. Borkowski does not specifically disclose the mobile station position information is derived from base station identification.

Chiang teaches the mobile station position information is derived from base station identification (see column 2, lines 31-37).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Chiang into the system of Borkowski in order to provide an alternative way to determine the location of the mobile station.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Johnson (US 6,636,490) teaches self-installation of wireless access network terminal.
- b. Lim (US 6,259,923) teaches method for providing cell location service.
- c. Bevan (US 6,415,149) teaches method and apparatus for handoff in a cellular radio communication system.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (703) 605-5164. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi H. Ly

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01/13/05

*Marsha D Banks-Harold*

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